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Message Text

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ACTION SCI-06

INFO OCT-01 EUR-25 ISO-00 AID-20 CEQ-02 CIAE-00 COA-02

COME-00 DODE-00 EB-11 EPA-04 INR-10 IO-14 L-03 NSF-04

NSC-10 NSAE-00 PM-07 RSC-01 SS-20 SPC-03 FEA-02

SAM-01 DOTE-00 AEC-11 TRSE-00 CIEP-02 OMB-01 STR-08

INT-08 ACDA-19 CEA-02 TAR-02 DRC-01 /200 W
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R 041731Z FEB 74
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0173
INFO USMISSION EC BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 01859

DEPT PASS AEC

E.O. 11652: GDS
TAGS: SENV, TECH, GW
SUBJECT: US-FRG ENVIRONMENTAL AGREEMENT

REF: A. STATE 020929, B. BONN 12914, C. BONN 11656

1. I HAVE REVIEWED THE DRAFT US-FRG ENVIRONMENTAL AGREEMENT FORWARDED WITH REF A AND FIND IT ACCEPTABLE, WITH ONE EXCEPTION, AS A BASIS FOR CONTINUED DISCUSSIONS WITH THE FRG. THE DEPARTMENT AND THE AEC HAVE APPARENTLY FOUND IT IMPOSSIBLE TO INCLUDE REACTOR SAFETY RESEARCH AND REGULATORY MATTERS WITHIN THE SCOPE OF THIS AGREEMENT AS REQUESTED BY THE FRG AND RECOMMENDED BY THIS EMBASSY. I BELIEVE THAT WE THUS MISS AN EASY OPPORTUNITY TO ESTABLISH AN IMPORTANT POINT AND PRIVILEGE. BEFORE PRESENTING THIS TEXT TO THE FRG, I WOULD LIKE TO AMPLIFY ONE OF OUR KEY REASONS FOR OUR RECOMMENDATION AND TO URGE RECONSIDERATION. AS OUTLINED IN PARAGRAPH 4 BELOW, IT WILL BE POSSIBLE TO DELAY
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NEGOTIATION OF THIS AGREEMENT WHILE WE CONSIDER ONCE

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AGAIN HOW US INTERESTS MAY BEST BE SERVED.

2. REPRESENTATIVES OF WESTINGHOUSE MENTIONED TO ME SOME POSSIBILITY THAT FRG REACTOR SAFETY REGULATORY PROCEDURES MAY BE MISUSED AS A NON-TARIFF TRADE BARRIER TENDING TO EXCLUDE THEM FROM THE GERMAN MARKET FOR NUCLEAR POWER PLANTS. I HAVE AGREED TO MAKE WHATEVER REPRESENTATIONS MIGHT BE APPROPRIATE WHEN AND IF WESTINGHOUSE CHOOSES TO PRESENT SPECIFICS TO BEAR OUT THEIR MISGIVINGS. OBVIOUSLY, QUESTIONS OF REACTOR SAFETY REGULATION ARE COMPLEX AND SUCH REPRESENTATIONS IF AND AS NECESSARY WOULD BE FAR EASIER WERE THERE AN ESTABLISHED BASIS FOR US-FRG CONSULTATIONS IN THIS RESPECT. I NOTE THAT ARTICLE IV OF THE DRAFT TEXT DOES, AS DID EARLIER DRAFTS, PROVIDE AN EXCELLENT BASIS FOR CONSULTATIONS WHENEVER ENVIRONMENTAL PROTECTION MEASURES MIGHT CONSTITUTE A BARRIER IN RESTRAINT OF TRADE. WE MAY THUS ESTABLISH AN IMPORTANT POINT AND ACQUIRE AN IMPORTANT PRIVILEGE BY INCLUDING REACTOR SAFETY AS AN "ENVIRONMENTAL" MEASURE IN THE CONTEXT OF THE US-FRG ENVIRONMENTAL AGREEMENT.
(NOTE: THE FRG, PARTICULARLY THE FOREIGN OFFICE AND THE CHANCELLOR'S OFFICE, HAVE DIFFERENT BUT ACCEPTABLE REASONS FOR WISHING TO INCLUDE REACTOR SAFETY. I WILL NOT REITERATE HERE THESE AND THE OTHER REASONS FOR FAVORING A GOVERNMENT-GOVERNMENT AGREEMENT CONTAINING REACTOR SAFETY AND RELATED TOPICS WHICH MAY BE FOUND IN THE REFERENCES AND IN A LETTER OF OCTOBER 19 FROM DR. MCCLELLAND TO MR. KULICK, SCI.)

3. THE DRAFT GOVERNMENT-GOVERNMENT AGREEMENT PROVIDES ADEQUATE FLEXIBILITY FOR THE USG TO DESIGNATE APPROPRIATE POINTS OF CONTACT AND DIFFERENT EXECUTIVE AGENCIES AND TO NEGOTIATE SEPARATE AGENCY-AGENCY AGREEMENTS TO IMPLEMENT VARIOUS ASPECTS OF THE BILATERAL PROGRAM. WE ASSUME,OF COURSE, THAT THE AEC WOULD BE THE APPROPRIATE ACTION AGENCY AS THE US PARTNER FOR COOPERATION IN ALL ASPECTS OF THE SAFETY OF NUCLEAR FACILITIES. THE FRG HAS RECOGNIZED THIS, AND DRAFT AGENCY-AGENCY AGREEMENTS ARE UNDER NEGOTIATION
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BETWEEN THE AEC AND THE FRG MINISTRY OF RESEARCH AND TECHNOLOGY (REACTOR SAFETY RESEARCH AND RADIOACTIVE WASTE MANAGEMENT) AND WITH THE MINISTRY OF THE INTERIOR (RESPONSIBLE FOR THE REGULATORY ASPECTS OF REACTOR SAFETY). THIS DIVISION OF RESPONSIBILITY PRESENTS NO PROBLEMS FOR THE FRG, WHICH FEELS THAT A GOVERNMENT-GOVERNMENT AGREEMENT TO AUTHORIZE COOPERATION BETWEEN APPROPRIATE AGENCIES PROVIDES

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BETTER ASSURANCES OF CONTINUED FRUITFUL COOPERATION
SHOULD THE SPECIFIC RESPONSIBILITIES OF VARIOUS
AGENCIES BE AMENDED THROUGH REORGANIZATION.

4. FRG OFFICIALS HAVE AGREED THAT THE THREE AGENCY-
AGENCY MEMORANDA FOR COOPERATION WHICH ARE NOW BEING
NEGOTIATED, TWO FOR SIGNATURE BY FRG TECHNOLOGY
MINISTER EHMKE, MAY BE COMPLETED AND SIGNED BEFORE

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 01859

COMPLETION OF AN UMBRELLA "ENVIRONMENT" AGREEMENT TO
ENDORSE COOPERATION IN THESE AND OTHER FIELDS. THE FRG
ORIGINALLY DESIRED A GOVERNMENT-GOVERNMENT AGREEMENT TO
REFLECT THE RESPONSIBILITIES OF THE MINISTRY OF THE
INTERIOR, FOR SIGNATURE DURING A VISIT TO THE US BY
INTERIOR MINISTER GENSCHER. THERE IS NO IMMEDIATE
PROSPECT OF A GENSCHER VISIT. FURTHERMORE, MANY FRG
OFFICIALS ASSUME THAT GENSCHER WILL BECOME FOREIGN
MINISTER WHEN SCHEEL BECOMES PRESIDENT. SHOULD THIS

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HAPPEN, OUR CONTACTS BELIEVE IT 80 PERCENT PROBABLE
THAT ALL THE ENVIRONMENTAL RESPONSIBILITIES OF THE
INTERIOR MINISTRY WILL BE TRANSFERRED TO THE PRESENT
MINISTRY OF HOUSING, REGIONAL AND CITY PLANNING. BOTH
ENVIRONMENT AND THE REGULATORY ASPECTS OF REACTOR SAFETY
WOULD THUS REMAIN UNDER ONE FRG MINISTRY RESPONSIBLE
FOR ENVIRONMENTAL AFFAIRS.

5. IT MAY BE THAT MUTUAL US-FRG COMMITMENTS TO CONSULT
TO AVOID MISUSE OF REACTOR SAFETY REGULATORY MEASURES
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AS A NON-TARIFF TRADE BARRIER COULD BE INCORPORATED IN
THE AGENCY-AGENCY AGREEMENTS WHICH THE AEC IS PRESENTLY
NEGOTIATING TO IMPLEMENT THEIR COOPERATIVE PROGRAMS
WITH THE FRG. WE BELIEVE THAT AGENCY-AGENCY
ASSURANCES IN THIS AREA WOULD BE LESS EFFECTIVE THAN
THE GOVERNMENT-GOVERNMENT PLEDGE IN THE PRESENT
ENVIRONMENTAL AGREEMENT. REACTOR SAFETY QUESTIONS
WOULD BE, OF COURSE, AN APPROPRIATE COMPONENT OF A
FUTURE G-G AGREEMENT FOR COOPERATION IN ENERGY RESEARCH
AND DEVELOPMENT. WE FEEL THATPLEDGES TO AVOID NON-
TARIFF TRADE BARRIERS WOULD BE LESS APPROPRIATE AND
MORE DIFFICULT TO NEGOTIATE IN THIS CONTEXT.

6. I RECOMMEND THE INCLUSION IN THE REF A DRAFT
AGREEMENT, PERHAPS AS A SEPARATE INDEPENDENT TOPIC
UNDER ARTICLE II, OF THE PHRASE: "SAFETY OF NUCLEAR
INSTALLATIONS -- RADIOACTIVE WASTE MANAGEMENT, REACTOR
SAFETY REGULATORY PROCEDURES AND RELEVANT RESEARCH AND
DEVELOPMENT PROGRAMS." (SEE PARA 3, REF. B). IF THE
DEPARTMENT AND THE AEC FIND IT IMPOSSIBLE TO ACCEPT
THIS RECOMMENDATION, IT MAY BE FAR MORE DIFFICULT FOR
US TO INTERVENE TO PROTECT US INTERESTS THAN WOULD BE
THE CASE HAD WE A GOVERNMENT-GOVERNMENT AGREEMENT
PROVIDING FOR CONSULTATIONS ABOUT REACTOR SAFETY
REGULATORY PROCEDURES. ASSISTANCE TO THE US NUCLEAR
INDUSTRY IN THEIR EFFORTS TO SELL NUCLEAR POWER PLANTS
ABROAD IS ONE OF THIS EMBASSY'S HIGHEST PRIORITY
COMMERCIAL PROGRAMS.

7. THE FRG HAS INFORMED US THAT, AS EC MEMBERS, THEY
WOULD PREFER TO DISCUSS THIS DRAFT AGREEMENT WITH THE
EC THEMSELVES AND THAT THEIR LEGAL OBLIGATIONS COULD
CONCEIVABLY REQUIRE SUCH CONSULTATIONS. THEREFORE, WE
SUGGEST THAT THE DISCUSSIONS BETWEEN THE USG AND
CARPENTIER ON FEBRUARY 7-8 ABOUT THIS US-FRG AGREEMENT
BE LIMITED TO GENERALITIES PENDING RECONSIDERATION OF
THE EMBASSY'S POSITION AND SUBMISSION OF THE DRAFT TEXT
TO THE FRG.

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